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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-557-813

Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“Department”) is conducting an administrative review of the antidumping duty order on Polyethylene Retail Carrier Bags (“PRCBs”) from Malaysia, covering the period of review (“POR”) August 1, 2015, through July 31, 2016. The review covers one producer/exporter of subject merchandise, Euro SME Sdn Bhd (“Euro SME”). The Department preliminarily determines that Euro SME did not have reviewable entries during the POR. We invite interested parties to comment on these preliminary results.

DATES: EFFECTIVE [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION, CONTACT: Alex Rosen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7814.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2016, the Department published a notice of opportunity to request an

administrative review of the antidumping duty order on PRCBs from Malaysia for the POR.¹ On August 31, 2016, in response to a timely request from Petitioners,² and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the “Act”), and 19 CFR 351.221(c)(1)(i), the Department initiated an administrative review of the antidumping duty order on PRCBs from Malaysia with respect to Euro SME.³

Scope of the Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches (15.24 cm) but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this antidumping duty order excludes (1) PRCBs that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) PRCBs that are packed in consumer packaging with printing that refers to specific end-uses other than packaging

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 51850 (August 5, 2016).

² See Letter from Polyethylene Retail Bags Committee and its individual members Hilex Poly Co., LLC and Superbag Corp. (“Petitioners”), “Polyethylene Retail Carrier Bags from Malaysia: Request for Administrative Review,” dated August 31, 2016.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 71061 (October 14, 2016).

and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this antidumping duty order are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (“HTSUS”). This subheading may also cover products that are outside the scope of this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive.

Preliminary Determination of No Shipments

Subsequent to the initiation of this administrative review, the Department received a timely submission from Euro SME certifying that it did not have sales, shipments, or exports of subject merchandise to the United States during the POR.⁴ On October 16, 2016, the Department requested entry data from U.S. Customs and Border Protection (“CBP”) for subject merchandise exported by Euro SME and imported into the United States during the POR.⁵ This query returned no entries during the POR.⁶ Further, the Department transmitted a “no-shipments” inquiry to CBP requesting that it provide any information to the contrary, should such information exist.⁷ On November 7, 2016, the Department was notified by CBP that there were no shipments of PRCBs from Malaysia during the POR.⁸ Consistent with our practice, we preliminarily determine that Euro SME had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to

⁴ See Letter from Euro SME, “Polyethylene Retail Carrier Bags from Malaysia; No Shipment Certification,” dated October 18, 2016.

⁵ See Memorandum to the File, “U.S. Customs and Border Protection - No Shipment Inquiry Data,” dated October 19, 2016.

⁶ *Id.*

⁷ See CBP message 6295302, dated October 21, 2016.

⁸ See Memorandum to the File “U.S. Customs and Border Protection – No Shipment Inquiry Data,” dated November 7, 2016.

Euro SME but, rather, to complete the review and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice.⁹

Public Comment

Interested parties may submit case briefs to the Department no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.¹⁰ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹¹ Case and rebuttal briefs should be filed using ACCESS.¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.¹³ Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.¹⁴

⁹ See e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306 (August 28, 2014).

¹⁰ See 19 CFR 351.309(d).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² See 19 CFR 351.303.

¹³ See 19 CFR 351.310(c).

¹⁴ *Id.*

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁵ In accordance with the Department's practice, for entries of subject merchandise during the POR for which Euro SME did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction¹⁶ We intend to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) for Euro SME, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to Euro SME in the most recently completed review of the company; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash

¹⁵ See 19 CFR 351.212(b).

¹⁶ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters is 2.40 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Ronald K. Lorentzen
Acting Assistant Secretary
For Enforcement and Compliance

Dated: March 30, 2017

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